

integrity. At the very least, the FCC must provide for a reasonable transition period realizing that cable is a mature industry.

Respectfully submitted,

Tele-Media Corporation

By: Tele-Media Corporation of
Delaware

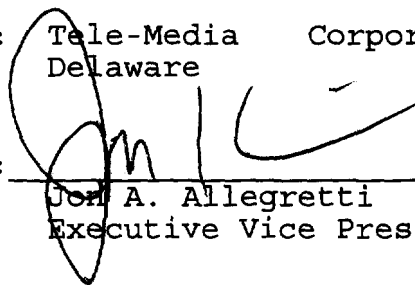
By: 
Jon A. Allegretti
Executive Vice President

EXHIBIT I

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JUN 23 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 21, 1993

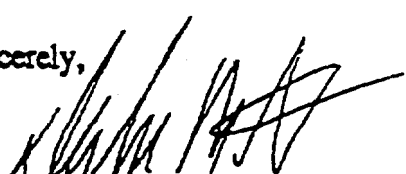

Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

Re: MM Docket 92-266
Report and Order and Further Notice of Proposed Rulemaking
In the Matter of Implementation of Sections of the Cable Television
Consumer Protection and Competition Act of 1992: Rate Regulation

Dear Sir:

Attached is a letter concerning the repercussions on the financial markets of the regulations adopted and proposed under the above referenced proceedings. The letter has been jointly endorsed by a number of the large commercial banks which follow and are active lenders to the cable television industry. We appreciate your consideration of the attached letter. If there are any questions please contact the undersigned.

Sincerely,


Douglas B. Smith
The Bank of New York
212-635-8471
Thomas E. Carter
NationsBank
214-508-0924

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JUN 23 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 21, 1993

The Honorable James H. Quello
Chairman
Federal Communications Commission
Washington, DC 20554

Re: MM Docket No. 92-266

Report and Order and Further Notice of Proposed
Rulemaking in the Matter of Implementation of
Sections of the Cable Television Consumer
Protection and Competition Act of 1992: Rate
Regulation (the "Report & Order").

Dear Chairman Quello:

As you may be aware, the undersigned lending institutions are major lenders to the Cable Television industry with over \$17.1 billion in commitments. Accordingly, we feel that it is important to share our views on the FCC's Report and Order in the above-referenced proceeding. Our comments are directed toward the current state of the financial marketplace for Cable Television, the expected consequences of the proposed rules on existing and future financings, and the corresponding impact on the industry's ability to invest in the plant and equipment necessary to provide advanced multimedia services to its customers.

When the Cable Act was passed in October 1992, the financial community initially reacted positively to what appeared to be a resolution to a significant amount of uncertainty which had persisted since cable re-regulation was proposed several years ago. However, the combination of the staged roll-out of the rules, their complexity, and several inconsistencies has created a great deal of concern among operators and lenders alike, and confusion for consumers.

Although cable system operators have attempted to estimate the impact of the Report and Order on their Cash Flow (defined as earnings before interest, taxes, depreciation and amortization), significant uncertainty remains as to the ultimate reduction in

Cash Flow and the timing of such reduction. These uncertainties result from: (i) the complexity of the rules and the existence of inconsistencies therein; (ii) the staged roll-out of the rules; (iii) the lack of defined cost-of-service showing standards and the intended adoption of such standards subsequent to the date when a cable operator must opt for either application of the FCC benchmark methodology or a cost-of-service showing; (iv) the outcome of retransmission consent negotiations and the inability of cable system operators to pass along any associated payments prior to October 6, 1994; (v) the FCC's continued consideration of excluding systems with less than 30% penetration from the definition of competitive systems, which may result in a further 17% reduction in the benchmark rates and, accordingly, basic program rates; (vi) the FCC's right to examine rates which, after the initial roll-back, are still above the benchmark, and to order further reductions thereof; and (vii) potential delays in implementing the Report and Order due to the logistics of conducting cost-of-service showings and potential legal challenges. This uncertainty is further exacerbated by: (i) a benchmark rate structure which appears to disincent the operators from upgrading their cable plant (the average permitted rate-per-channel declines as channel capacity increases) and, therefore, discourages the introduction of new services which may generate revenues to offset lower basic revenues; (ii) a benchmark rate structure that encourages the substitution of less expensive programming for existing programming (because the benchmarks do not directly factor in the cost of programming), which may reduce the overall attractiveness to the consumer of basic cable programming; and (iii) the must carry/retransmission consent rules which may result in the exclusion of certain existing broadcast or cable programs and further impact the consumer's perception of the value of basic cable programming.

At the Commission's open meeting on April 1, 1993 to consider the Report and Order, Commissioner Barrett asked the FCC staff if these regulations would have any effect on the industry's ability to access new financing. The staff suggested it would not. We respectfully disagree. Since Cash Flow is the primary determinant of a cable system's debt capacity, until all consequences of the Report and Order are determined (including the results of cost-of-service appeals), new bank financing will be inaccessible to most cable operators. It is estimated that it may take a number of quarters for the industry to fully assess the impact of the Report and Order and provide the financial community with meaningful forecasts. It is unlikely that we will lend new funds to the industry until the impact of the Report and Order is quantified and the operators are able to provide supportable forecasts.

The Cash Flow reductions resulting from the Report and Order threaten to place many cable system operators in default of bank and insurance company loan agreements since most of these agree-

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ments contain financial covenants based on Cash Flow. These financial covenants were based on Cash Flow forecasts prepared prior to the publication of the Report and Order. These forecasts showed reasonable growth in revenues and Cash Flow from a combination of modest rate increases, subscriber growth and system expansion. This forecasted operating performance may in many cases no longer be attainable given the Cash Flow reductions attendant to the FCC benchmark methodology and the disincentives therein to system expansion. Many operators will need to seek amendments of their financial covenants. Others may have to divert funds from capital expenditures, raise additional equity, or amend their debt amortization schedules to meet existing debt repayment obligations. While the strongest cable operators will have financing options, the smaller "all cable" operators will find all forms of capital elusive.

As a result of these potential covenant defaults, banks and insurance companies, traditionally the primary source of debt capital to the Cable Television industry, may likely face heightened regulatory scrutiny of their activities related to Cable Television. Depending on the magnitude of the impact of these changes on their Cable Television loan portfolios and the magnitude of the corresponding regulatory pressures to reserve capital against the portfolios, banks and insurance companies may find their general ability to extend credit to this industry somewhat diminished.

These rulemakings occur at a time when technological development stands ready to avail the cable customer of numerous new products and services which will lead to the interactive communications highway. However, without the ability to access new capital, many operators will have to defer investment in plant improvements until they are able to demonstrate to financial markets that their Cash Flow is capable of supporting additional debt. This concern is particularly acute for the smaller cable operators who do not have access to the public capital markets and rely primarily upon bank and insurance company financings.

Even if this scarcity of capital is resolved over time, the FCC's benchmarks do not seem to favor more technologically advanced systems. In the past, the ability to recover such investments led to the significant improvement in the quality and diversity of cable programming such as CNN, C-SPAN, Black Entertainment Television and Nickelodeon. However, the proposed regulation makes it difficult to recover costs of higher channel capacity and to justify investment in system upgrades. We believe that this dilemma is attributable to the methodology for setting the announced benchmark levels. In situations where competition exists between a cable television operator and a second provider of video programming, the competition is generally in its early stages of development and a sustainable competitive rate level may not yet be established. In our experience

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with competitive markets, both providers are competing for market share and are not operating at sustainable rate levels. The cable operator is able to offset the lower rates in the competitive system with Cash Flow from other systems; on the other hand, the second provider is generally equity financed and is initially charged with gaining market share rather than generating sufficient Cash Flow to justify its capital investment. As a result, the rate levels in most of the competitive situations are not likely to be sustainable over the long term. This is demonstrated by the fact that in several markets where competition had existed, one of the two providers either became insolvent or voluntarily withdrew from the market.

We urge that the potential consequences outlined above be given serious consideration when evaluating the proposed rules. Specifically, we ask that you promptly reconsider, refine and clarify the basis of the rate benchmarks and the means by which operators can preserve their financial viability through cost-of-service showings. Failure to take this prompt action, we strongly believe, will have a negative effect on the banking industry's ability to finance the continued growth of the cable television industry. This in turn will be injurious to the consumer's quality of service and programming content; the competitive environment for development of highly sophisticated, broadband networks which will provide for multi-faceted interactive service including voice, data and video components; overall industry employment; and the smaller entrepreneurial operator's ability to survive.

We look forward to pursuing these issues in greater detail by participating in the upcoming comment period related to the cost-of-service rules showing.

Sincerely,

Bank of America
The Bank of Hawaii
The Bank of New York
The Bank of Nova Scotia
Canadian Imperial Bank
of Commerce
Citibank
CoreStates Bank
The First National Bank
of Boston
The First National Bank
of Chicago

First Union National Bank
Fleet National Bank
Mellon Bank
Morgan Guaranty Trust of
New York
NationsBank
PNC Bank
Royal Bank of Canada
Societe Generale
Toronto Dominion

cc: Commissioner Andrew Barrett
Commissioner Ervin Duggan

EXHIBIT II

A F F I D A V I T

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CENTRE

I, Jon A. Allegretti, am the duly elected and qualified Executive Vice President of Tele-Media Corporation of Delaware, ("Tele-Media") and have served in such capacity at all times relevant for the facts set forth herein.

1. Tele-Media serves as a management company for a family of affiliated operating companies serving approximately 450,000 equivalent basic subscribers in 17 states.
2. Two of Tele-Media's affiliated operating companies are Tele-Media Company of Western Connecticut ("TMCWC") and Bryson City Cablevision Associates, Limited Partnership ("Bryson"). TMCWC along with its subsidiary, Tele-Media Company of Naugatuck Valley ("TMCNV") serve, by means of a single headend, several communities in the Naugatuck Valley region of Connecticut. As of June 30, 1993, the TMCWC system served 42,067 subscribers. Bryson serves the communities of Bryson City and Robbinsville, North Carolina and surrounding areas by means of two headends. As of June 30, 1993, Bryson served 2,314 subscribers.
3. Applying the methodology prescribed by the FCC in its benchmark formula for determining whether TMCWC and TMCNV's rates are reasonable, Tele-Media has determined that its current aggregate rate for basic service and cable programming service is \$31.20. Tele-Media has determined that the aggregate rate for its basic cable service and cable programming service prescribed by the FCC is \$26.78. Accordingly, in order to comply with the FCC prescribed rate formula, TMCWC and TMCNV would have to reduce the aggregate rate for basic cable service and cable programming services by \$4.42.
4. Applying the methodology prescribed by the FCC in its benchmark formula for determining whether Bryson's rates are reasonable, Tele-Media has determined that its current aggregate rate for basic service and cable programming service is \$23.75. Tele-Media has determined that the aggregate rate for its basic cable service and cable programming service prescribed by the FCC is \$19.72. Accordingly, in order to comply with the FCC prescribed rate formula, Bryson would have to reduce the aggregate rate for basic cable service and cable programming services by \$4.03.

5. Tele-Media has determined that absent a cost of service proceeding, a reduction in the aggregate rate for basic and programming service described above would result in a reduction in projected annual revenue for 1994 of approximately \$2,000,000, and a reduction in cashflow of \$1,900,000 over the same period. This reduction in cashflow represents approximately 17% of TMCWC/TMCNV's projected annual cashflow.
6. Tele-Media has determined that absent a cost of service proceeding, a reduction in the aggregate rate for basic and programming service described above would result in a reduction in projected annual revenue for 1994 of approximately \$115,000, and a reduction in cashflow of \$110,000 over the same period. This reduction in cashflow represents approximately 22% of Bryson's projected annual cashflow.
7. Under each of the loan agreements with lenders for TMCWC/TMCNV and Bryson, the respective borrower(s) is required to meet certain financial covenants. If the reductions to cashflow described above occur, both TMCWC/TMCNV and Bryson will be in default of their loans. Furthermore and more importantly, in the event that the cashflow reductions described above occur, TMCWC/TMCNV and Bryson will not be able to meet all of their obligations to their (i) lenders, (i.e. principal and interest) (ii) local franchise authorities (e.g. line extension requirements) and FCC (e.g. technical and customer service requirements).
8. I have chosen TMCWC/TMCNV and Bryson to illustrate the harsh impact of the FCC benchmark regulations for specific reasons. First, in the case of TMCWC/TMCNV Tele-Media's purchase of this system and the financing structure of this purchase were approved by the Connecticut Department of Public Utility Control. Therefore, Tele-Media cannot understand how an approved purchase and financing plan can be essentially struck down after the fact creating economic strife. Second, Tele-Media purchased the general partner's interest in Bryson in 1986, prior to the large volume of higher priced cable transactions that occurred from 1987-1990. Tele-Media, through Bryson, provides a service to a rural, low-density population area averaging 23 homes per mile. The loss of the cashflow described above will limit our ability to continue to provide cable service to this area.
9. As a private company without a public equity or public debt aspect to the capital structure of any of our affiliated operating companies, Tele-Media's sources of capital are primarily banks (and to a lesser extent insurance companies) for senior debt capital and venture capital funds for subordinate debt and equity capital. At each layer of our capital structure, senior, subordinate and equity, Tele-

Media is required to pay a cost of capital in excess of the amounts paid by telephone companies and larger cable companies. By way of example, many of Tele-Media's bank loan agreements provide for a higher interest rate due to the smaller size of the transactions done with Tele-Media versus larger cable operators. Furthermore, banks look for repayment in eight years while the public market lenders (e.g. bonds) utilized by phone companies and large cable companies allow repayments of 10, 15 and in some cases, 20-30 years. With respect to subordinate debt, Tele-Media pays an interest rate typically in the high teens to mid-twenties. In contrast, larger MSO's have paid as little as 9% for subordinate debt (see for example, the recent subordinate financing of Continental Cablevision). With respect to equity capital, while public institutional investors, investing in larger MSO's, are generally satisfied with a return on investment in the teens, private venture capital funds, have historically looked for Tele-Media to provide a return on investment in excess of 30%, sometimes even exceeding 40%. Recently, some of these firms have suggested that they would consider lowering their equity return expectations to between 25 and 30%. However, these amounts still exceed the amounts paid by larger cable companies and telephone companies. The aggregate effect of the foregoing is that smaller operators, including mid-size MSO's such as Tele-Media, are required to pay out a significantly greater portion of their monthly revenue for higher cost capital than telephone companies or larger MSO's.

Sincerely,


Jon A. Allegretti
Executive Vice President

8/24/93
DATE

SWORN TO AND SUBSCRIBED BEFORE ME, by the said Jon A. Allegretti, on this the 24th day of August 1993.


Notary Public in and for

My commission expires
Jonathan P. Young, Notary Public
College Twp., Centre County
My Commission Expires May 6, 1996
Member, Pennsylvania Association of Notaries